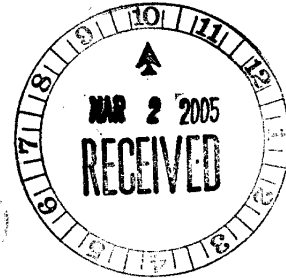




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March 1, 2005

Vernon A. Williams, Secretary  
Surface Transportation Board  
1925 "K" Street, NW  
Washington, D.C. 20423-0001

ENTERED  
Office of Proceedings

MAR 02 2005

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Public Record

#### BEFORE THE SURFACE TRANSPORTATION BOARD

RE: Union Pacific Railroad Abandonment, POLK and STORY Counties in  
Iowa;

Docket # AB-33 (Sub-No.206X) from Mile post 10.7 near Ankeny to  
milepost 341.1 near Slater.

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#### Motion to Extend the Time Period for Negotiation of an Interim Trail Use/Railbanking Agreement

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In partnership and on behalf of the Polk and Story County Conservation Boards (county government agencies) the Iowa Natural Heritage Foundation (INHF) hereby moves the Surface Transportation Board (STB or Board) to extend the time period for negotiation of a mutually acceptable interim trail use/railbanking agreement in this proceeding up and including **September 2, 2005**.

The Iowa Natural Heritage Foundation and the Counties have been negotiating with the Union Pacific Railroad (UPRR), but the parties need additional time to complete the negotiations.

To successfully preserve this corridor for interim trail use and railbanking under section 8(d) of the National Trails System Act, 16 U.S.C. 1247 (d), it is necessary for the negotiation period under the NITU to be extended up to and including September 2, 2004. See Policy Statement on Rails to Trails

Conversions, Ex Parte No. 274 (Sub. No. 13b) (ICC served Feb. 5, 1990)  
(extensions of time promote the establishment of trails and railbanking  
consistent with the National Trails System Act).

Since the issuance of the NITU, UPRR at all points has maintained intent to transfer the line intact for interim trail use. The railroad has not sold, or offered for sale, any parcels of land that would interfere with interim trail use and railbanking of the portion of the corridor that is covered by the NITU (Mile post 10.7 near Ankeny to milepost 341.1 near Slater). The line remains intact and throughout the period, the railroad has been negotiating with INHF for the transfer or sale of the corridor intact. Accordingly, the Board retains jurisdiction to extend the NITU to continue bona fide and active negotiations for interim trail use of the line.

In similar instances, this Board has reopened proceedings to permit the issuance of orders implementing section 8(d) for rail lines. The STB's authority to extend a NITU was upheld in Birt v. STB, 90 F.3d 580 (D.C. Cir. 1996). Here the parties merely seek and extension in the period for negotiation provided in a previously issued NITU. Such an extension will promote and further the purposes of the Trails Act.

For the reasons stated, INHF on behalf of the Polk and Story County Conservation Boards requests that an extension of the NITU negotiation period be granted through **September 2, 2005**.

Respectfully Submitted,



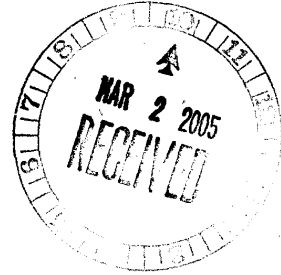
Mark C. Ackelson  
President, Iowa Natural Heritage Foundation

cc: Polk and Story County Conservation Boards



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### CERTIFICATE OF SERVICE

I hereby certify that on March 1, 2005, a true and accurate copy of the foregoing motion has been served to the following party via first-class mail, postage pre-paid and VIA FAX to 312-777-2065.

Mack H. Shumate, Jr.  
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101 N. Wacker Dr. Rm 1920  
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Mark C. Ackelson, President  
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cc:

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